

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. : 10/734,671
Applicant : Foerster et al.
Filed : 12/12/2003
Group Art Unit: 3736
Examiner : Apanius
Docket No. : END-897DIV3
Customer No. : 021884
Title : METHODS AND DEVICES FOR DEFINING AND MARKING
TISSUE

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action of June 26, 2008, enclosed please find an amended Summary of the
Claimed Subject Matter section. As the Notification indicates, only the defective section is being submitted.

If additional information is required, the Office is urged to contact the undersigned at (703) 920-
1122.

Respectfully submitted,



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Our Docket No. END-897DIV3

SUMMARY OF THE CLAIMED SUBJECT MATTER

Claim 49 is the only independent claim involved in the present Appeal. As such, claim 49 is summarized below. Claim 49 sets forth a delivery system (10) for delivering marker material (12) to a target site (51) within a patient. The delivery system (10) includes an elongate member (54) having a distal end, a discharge port in the distal end and an inner lumen (56) extending therein to and in fluid communication with the discharge port in the distal end. A mass of solid particulate marker material (one or more 12i) is disposed within the inner lumen (56). The delivery system (10) also includes an ejector (18, 24) which is advancable with and coupled to said elongate member (54) and which is configured to eject particulate marker material from the discharge port in said distal end of said elongate member (54). Support is found throughout the Specification as originally filed where the reference numerals listed above are used. Specification, Page 16, line 27, through Page 18, line 13 and Page 22, lines 20-28.